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STATINTL

# Two-Faced Morality

CHIEF JUSTICE Warren Burger is an uncomplicated man who greets late-night visitors gun in hand. It is the duty of every citizen, he wrote in his dissent on the Pentagon Papers, "taxi drivers, justices and the New York Times to report stolen property to responsible officers." It is good, old-fashioned morality, and there is nothing wrong with it except that it is simple-minded as the following stories reveal:

Story number one is as follows: In the fall of 1944,

Gen. William J. Donovan, American hero of World War I and later chief of the World War II espionage organization known as OSS, wrote a memorandum to President Roosevelt. In this memorandum, Donovan suggested establishment of a postwar "centralized intelligence agency."

The letter was stamped "Top Secret" and sent to the White House, eleven copies being retained in Donovan's files. While Mr. Roosevelt was considering Donovan's idea, FBI Director J. Edgar Hoover obtained one of the copies and gave it to a Washington reporter for the Chicago Tribune named Walter Trohan.

Trohan denounced Donovan's plan in print as "an all powerful intelligence service ... to pry into the lives of citizens." He explained that it would have "secret funds for spy work along the lines of ... luxury living described in the novels of E. Phillips Oppenheim."

CONGRESS chimed in. One congressman took the floor to say that the Donovan plan was another "indication that the New Deal, like Simon Legree, wants to own us, body and soul."

In the uproar, Donovan's ambition to keep OSS (with himself as its chief) a part of the U.S. government was ended.

So much for story one. Story two is more recent. A few weeks ago, the North Vietnamese delegation to the Paris peace talks proposed to return U.S. prisoners of war on condition that President Nixon announce a date for withdrawal of Americans. The proposal put the president on the spot. He had been saying that return of our prisoners was a condition to get out

but he had also said we would not start with the Chief Justice. It is a terrible simplifier. Like a gun in the night.

Should he go before the American people and say he was refusing the offer of our prisoners because the government of Thieu and Ky—after all these years still didn't have a reasonable chance to survive?

What the President did, instead, was to cause a memorandum to be leaked from the Central Intelligence Agency to the New York Times. The memorandum was an analysis of the North Vietnamese proposal. It called the proposal a trap, a snare and a delusion. It helped take the President off the spot.

NOW WHAT are the lessons from these two stories? If it is the duty of every citizen to report stolen property, as the Chief Justice says, does this duty extend to J. Edgar Hoover? Or is he entitled to a higher duty—in this instance to prevent the formation of a government agency which he thought might rival his own? If Hoover is entitled to a higher duty—isn't Dan Ellsberg entitled to argue that he stole the Pentagon papers out of a higher duty, and isn't the New York Times entitled to argue that it received them out of a higher duty?

If it is the duty of newspapers not to print confidential government papers, what are the newspapers to do with confidential papers the President wants printed?

Does the Chief Justice believe that when Sen. Henry M. Jackson announced the other day that the Russians had some new holes in the ground, he was revealing information gained from personal observation? Isn't it more likely that somebody at the Pentagon gave Senator Jackson the content of a secret document?

It's hard to know where to start with the Chief Justice. It is a terrible simplifier. Like a gun in the night.